



Arizona Peace Officer Standards and Training Board

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514 Fax (602- 244-0477

Minutes of Meeting September 20, 2017

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on September 20, 2017, at the Arizona Peace Officer Standards and Training Board, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sheriff Scott Mascher, Yavapai County Sheriff's Office, Chairman
Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich
Sergeant Chris Andreacola, Tucson Police Department
Sheriff Mark Dannels, Cochise County Sheriff's Office
Chief Byron Gwaltney, Pima County Sheriff's Department
Chief Lawrence Hall, Buckeye Police Department
Mr. Andrew LeFevre, Grand Canyon University
Colonel Frank Milstead, Arizona Department of Public Safety
Chief Alan Rodbell, Scottsdale Police Department
Director Charles Ryan, Arizona Department of Corrections

Members Absent:

Sergeant Leo Aparicio, Pinal County Sheriff's Office

Staff in Attendance:

Jack G. Lane, Executive Director
Ted Brandon, Compliance Specialist
Billy Caldwell, Compliance Specialist
Dan Ciernia, Video Production Supervisor
Mike Deltenre, Compliance Specialist
Cathy Hawse, Compliance Specialist
Mark Perkovich, Program Administrator
Lynn Pirkle, Administrative Services Officer
Cynthia Sawyer, Training Compliance Specialist
Sandy Sierra, Administrative Services Officer
Chester Szoltysik, Systems Administrator
Lori Wait, Compliance Specialist

Assistant Attorneys General:

Michael Saltz
Seth Hargraves
Jeanne Galvin

A. Call to Order

Chairman Mascher called the meeting to order at 10:00 a.m. and asked Chief Larry Hall to lead everyone in reciting the Pledge of Allegiance.

B. Introductions, Presentations and Announcements

Jack G. Lane, Executive Director

- Assistant Attorney General Jeanne Galvin will provide legal advice to the Board today on the Hilario Samudio case.
- New case #17-097, Garrett A. Dever, will be tabled.
- Dan Ciernia, Video Production Supervisor, was presented with his 10-year service pin for his ten years of service at AZ POST.

C. Consent Agenda

Sheriff Dannels made a motion to accept the Consent Agenda. The motion was seconded by Chief Rodbell and passed unanimously.

1. Minutes of the Board meeting held on July 19, 2017, were approved as written.
Minutes of the Board meeting held on August 16, 2017, were approved as written.
Minutes of the executive session held on August 16, 2017, were approved as written.

2. Ministerial Actions:

a. Certification Waivers:

Justin B. Adams	Buckeye Police Department
James David Gillespie	Scottsdale Police Department
Joshua S. Hooper	Apache Junction Police Department
James M. Skinner	Paradise Valley Police Department
Michael T. Dale	Lake Havasu City Police Department
Reginald Grigsby	AZ Attorney General's Office
Glenn E. Madison Jr.	Arizona State University Police Department
Cory Zimmerman	Arizona State University Police Department
Kevin J. Morgan	Paradise Valley Police Department
Joshua G. Latina	Peoria Police Department
Justin A. Bartlett	Pinal County Sheriff's Office
Scott L. Ketcham	Parker Police Department

3. Income and Expense Statement – July 2017

Funds as of July 1, 2017	\$898,927.57
CJEF Revenue (June/July 2017)	980,097.15
Misc. Revenue (July 2017)	0.00
Expenditures for July 2017	(473,812.46)
Balance as of May 31, 2017	\$1,405,212.26

4. Consent Agreements for Voluntary Relinquishment of Peace Officer Certification for the following:

Michael C. Bott	17-072	Oro Valley Police Department
Sebastian S. Castillo	16-087	Phoenix Police Department
Denver M. Holzworth	17-085	Yuma Police Department
Matthew L. Mansfield	17-005	ASU Police Department
Taylor Romney	16-115	ASU Police Department

D. Executive Director’s Report

Jack G. Lane, Executive Director

- The August revenue was slightly higher than anticipated.
- The grant provided to the Phoenix Police Department to assist with the academy transition will be presented to the Phoenix City Council for approval at their meeting today. This grant will expire December 31, 2017.
- A meeting with the current academies was held on September 6. All eight full-time academies were represented as well as two open enrollee academies associated with community colleges. The funding for academies was discussed as well as the need to change the funding formula beginning FY 2019.
- A general fund request was submitted, through the Department of Public Safety, to the Governor’s Office of Strategic Planning and Budgeting (OSPB). The request is for \$2.5 million for Basic and In-Service Training. This is the second year a funding request has been submitted to OSPB; we have never been funded through the legislative budget.
- Compliance Specialist Ted Brandon will be retiring effective January 6, 2018. Interviews will be conducted next week to fill his position to hopefully bring someone on-board prior to Ted’s departure.
- Training Manager Don Yennie announced his retirement for March 2018. A search for his replacement will be conducted soon in hopes of bringing someone on-board before Don’s departure.

E. Legislative Update

Jack G. Lane, Executive Director

There is nothing new to report.

F. Summary of Current Events

Jack G. Lane, Executive Director

There is nothing new to report.

G. Review, Discussion and Possible Action on a Petition from the Yavapai College Police Department for a Determination that Applicant Oscar Berrelez Jr.'s Drug Usage was Experimental

The Yavapai College Police Department petitioned the Board to determine that the drug usage by applicant Oscar Berrelez Jr. was experimental. Sergeant Tyran Payne presented the petition on behalf of Chief Monahan and also read a letter from the chief requesting that the Board grant the petition.

Sergeant Andreacola made a motion to grant the petition for a determination that the pre-employment marijuana use by applicant Oscar Berrelez Jr. was experimental. The motion was seconded by Chief Hall and passed unanimously.

H. Review, Discussion and Possible Action on a Petition from the Somerton Police Department for a Temporary Restricted Full Authority Peace Officer Certification for Chief Cavender

Chief Jeffery Cavender of the Somerton Police Department petitioned the Board for a temporary restricted full authority peace officer certification. The petition was presented by Assistant Attorney Michael Saltz. Chief Cavender will be temporarily restricted from being assigned to any duty likely to result in the need to apply physical force. The restriction would remain until the Department can attest that Chief Cavender has met all requirements necessary for full authority.

Chief Rodbell moved to grant a temporary full authority restricted peace officer certification to Chief Jeffery Cavender. This certification would restrict Chief Cavender from being assigned any duty likely to result in the need to apply physical force, and further, that the potential for such need is so remote as to be highly unlikely, and is authorized only until Chief Cavender has met all requirements necessary for full authority while employed with the Somerton Police Department, seconded by Chief Hall and passed unanimously.

I. Reports – Department of Corrections

Director Charles Ryan

- Since the last regular meeting of July 2017, 100 cadets have graduated from COTA. There are currently three classes in session with 121 cadets in attendance. There are 813 vacancies statewide. Four cadets have graduated through county and tribal detention IGAs. COTA recently held a 2-day canine training session. The re-entry program is going quite well. The current inmate population is 42,200; last fiscal year they had the greatest decline in inmate population since 1994. There will be no new beds added for the next three years. The Vivitrol pilot program administered to inmates upon release is going well. Vivitrol is a medication used to treat opioid addiction.

J. Final Action Cases:

1. 17-037 – Hilario Samudio – Phoenix Police Department
The Board heard oral argument on the Administrative Law Judge's (ALJ) Decision from Assistant Attorney General Seth Hargraves, attorney for the Arizona Peace Officers Standards and Training Board. Mr. Samudio was not present.

Colonel Milstead made a motion to accept the ALJ's Findings of Fact and Conclusions of Law and deny peace officer certification to Mr. Samudio. The motion was seconded by Chief Rodbell and passed unanimously.
2. #17-103 – Bradley J. Battaglia – Flagstaff Police Department
The Board considered comments from Assistant Attorney General Michael Saltz. Chief Hall made a motion to accept the Consent Agreement, Decision and Order for a 6-month suspension of Mr. Battaglia's peace officer certification. The suspension shall be in effect from June 1, 2017, to December 1, 2017. The motion was seconded by Chief Rodbell and passed with one nay vote recorded for Colonel Milstead.
3. #15-109 – David J. Tarnow – Pima County Sheriff's Department
Chief Gwaltney recused himself from this case. The Board considered comments from Assistant Attorney General Michael Saltz. Sheriff Dannels made a motion to revoke Mr. Tarnow's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.
4. #17-036 – Gregory L. Hunter Jr. – AZ Department of Public Safety
Colonel Milstead recused himself from this case. The Board considered comments from Compliance Manager Mark Perkovich. Sergeant Andreacola made a motion to accept the Findings of Fact and Conclusions of Law and deny peace officer certification to Mr. Hunter. The motion was seconded by Chief Rodbell and passed unanimously.
5. #16-134 – Christopher M. Lane – Mohave County Sheriff's Office
The Board considered comments from Compliance Manager Mark Perkovich. Chief Rodbell made a motion to accept the Findings of Fact and Conclusions of Law and revoke Mr. Lane's peace officer certification. The motion was seconded by Chief Hall and passed unanimously.
6. #16-025 – Anne C. Miguel – Tohono O'odham Nation Police Department
The Board considered comments from Compliance Manager Mark Perkovich. Colonel Milstead made a motion to accept the Findings of Fact and Conclusions of Law and revoke Ms. Miguel's peace officer certification. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.
7. #17-054 – Kevin E. Williams – AZ Department of Public Safety
Colonel Milstead recused himself from this case. The Board considered comments from Compliance Manager Mark Perkovich. Sergeant Andreacola made a motion to accept the Findings of Fact and Conclusions of Law and suspend Mr. Williams' peace officer

certification for one year; from February 6, 2017 to February 6, 2018. The motion was seconded by Mr. Ahler (AAG) and passed unanimously.

K. New Charging Cases:

1. #16-200 – Thomas E. Drane – St. Johns Police Department
The Board considered comments from Assistant Attorney General Michael Saltz. Chief Rodbell made a motion to accept the Consent Agreement, Decision and Order for voluntary relinquishment of Mr. Drane’s peace officer certification. The motion was seconded by Colonel Milstead and passed unanimously.
2. #17-044 – Paul R. Robertson – Glendale Police Department
The Board considered comments from Compliance Specialist Billy Caldwell. Sheriff Dannels made a motion to **Initiate Proceedings** against Mr. Robertson’s peace officer certification. The motion was seconded by Director Ryan and passed unanimously.
3. #17-078 – Abraham A. Cabrera – San Carlos Tribal Police Department
The Board considered comments from Compliance Specialist Billy Caldwell. Mr. Ahler (AAG) made a motion to **Initiate Proceedings** against Mr. Cabrera’s peace officer certification. The motion was seconded by Colonel Milstead and passed unanimously.
4. #15-054 – Jim D. Salazar – Eloy Police Department
The Board considered comments from Compliance Specialist Billy Caldwell. Colonel Milstead made a motion to close this case with **No Action with Agency Discretion**. The motion was seconded by Chief Gwaltney and failed. Sheriff Dannels made a motion to **Initiate Proceedings** against Mr. Salazar’s peace officer certification. The motion was seconded by Chief Hall and passed unanimously.
5. #17-081 – Herman D. Nixon – Williams Police Department
The Board considered comments from Compliance Specialist Mike Deltenre. Chief Rodbell made a motion to close this case with **No Action**. The motion was seconded by Sheriff Dannels and passed unanimously.
6. #17-073 – Decio P. Hopffer – Tucson Police Department
Sergeant Andreacola recused himself from this case. The Board considered comments from Compliance Specialist Cathy Hawse. Colonel Milstead made a motion to **Initiate Proceedings** against Mr. Hopffer’s peace officer certification. The motion was seconded by Mr. LeFevre and passed unanimously.
7. #17-093 – Eddie Conaway – Phoenix Police Department
The Board considered comments from Compliance Manager Mark Perkovich; a short video was also presented. Sheriff Dannels made a motion to **Initiate Proceedings** against Mr. Conaway’s peace officer certification. The motion was seconded by Director Ryan and passed unanimously.

8. #17-097 – Garrett A. Dever – Phoenix Police Department

This case was tabled.

9. #17-077 – Christian E. Perez – Phoenix Police Department

The Board considered comments from Compliance Manager Mark Perkovich. Mr. Ahler (AAG) made a motion to **Initiate Proceedings** against Mr. Perez's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

The following case was taken out of order.

10. #17-092 – Nelu D. Podea – Phoenix Police Department

The Board considered comments from Compliance Manager Mark Perkovich; a short video was also presented. Mr. LeFevre made a motion to **Initiate Proceedings** against Mr. Podea's peace officer certification. The motion was seconded by Director Ryan and passed unanimously.

11. #17-113 – Donald J. Carroll – AZ Attorney General's Office

Mr. Ahler (AAG) recused himself from this case. The Board considered comments from Compliance Specialist Lori Wait. Chief Rodbell made a motion to **Initiate Proceedings** to deny peace officer certification to Mr. Carroll. The motion was seconded by Sheriff Dannels and passed unanimously.

12. #17-053 – Kenneth K. Kimpel – Pima County Sheriff's Department

Chief Gwaltney recused himself from this case. The Board considered comments from Compliance Specialist Lori Wait. Colonel Milstead made a motion to **Initiate Proceedings** against Mr. Kimpel's peace officer certification. The motion was seconded by Chief Rodbell and passed unanimously.

13. #17-116 – David T. Nguyen – Maricopa Police Department

The Board considered comments from Compliance Specialist Lori Wait. Chief Rodbell made a motion to **Initiate Proceedings** to deny peace officer certification to Mr. Nguyen. The motion was seconded by Sheriff Dannels and passed unanimously.

14. #17-069 – Arnold I. Romero – Pima County Sheriff's Department

Chief Gwaltney recused himself from this case. The Board considered comments from Compliance Specialist Lori Wait. Chief Rodbell made a motion to **Initiate Proceedings** against Mr. Romero's peace officer certification. The motion was seconded by Colonel Milstead and passed unanimously.

L. Call to the Public

Steven Serbalik addressed the Board during the call to the public. He is an attorney who has represented officers that have come before the Board. He asked that the Board reconsider its decision to initiate proceedings when a Use of Force case comes before the Board and the agency has already issued discipline to the officer. He feels it is a huge impact on an officer when they have been disciplined by their agency and then again by AZ POST. He asked that the Board

considering allowing the agencies to internally deal with the discipline; specifically in cases that are not submitted by the agency but by other channels, i.e. media, disgruntled spouse, etc.

M. Future Agenda Items

No new items to add.

N. Adjournment

The meeting was adjourned at 11:30 a.m.